



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

litigated the question as to what the contract was." Code Civ. Proc., § 3063, provides that the Appellate Court must render justice according to the justice of the case, and without regard to technical defects, which do not affect the merits, and that it may reverse or affirm a judgment for errors of law or fact. It is hard to see what application this has to the case under discussion, since there would be no injustice in compelling recourse to the remedy of reformation before bringing suit, and since it can hardly be regarded as a technical defect for suit to be brought on one cause of action and recovery had under another. The cogency of the third reason, namely, that the parties had been allowed to litigate what the contract really was, is not apparent. All the testimony on this point could only serve to show that there had been a mutual mistake as to the contract, that the real contract was something different from that which appeared in the written instrument, and that there was need of the equitable remedy of reformation.

EASEMENTS—RIGHTS OF MORTGAGEE—COMPENSATION—*FERNIE V. CHICAGO, R. I. & P. Ry. Co.*, 58 Pac. 492 (Kansas).—A mortgagor of land granted the right of way to a railroad company without the consent of the mortgagee, and without any proceeding to condemn the land. *Held*, that a purchaser at a foreclosure sale under the mortgage or his grantee may sue the company for compensation, but cannot recover damages incident to the entry before he acquired title to the land.

This case seems to be correct on principle. *Perkins v. Pitts*, 11 Mass. 125, *Meriam v. Brown*, 128 Mass., 391, is an almost parallel case, holding as in the present case that the rails were real fixtures and became a part of the land. Although this is, without doubt, good law, there are decisions to the contrary. *Black River & Morristown Ry. Co. v. Barnard*, 16 N. Y. 104; *Cohen v. St. L., Ft. S. & W. Ry. Co.*, 34 Kan. 158.

EVIDENCE—REQUIRING PRODUCTION OF DOCUMENTS—*IN RE COMINGORE, COLLECTOR*, 96 FED. 552.—The reports made by a distiller, or by a storekeeper or other officers to a collector under the internal revenue laws are in no sense public records, and cannot be produced in court as evidence.

The question here hinges on the public nature of the storekeeper's report. If they are made "for the benefit of the public" (1 Greenl., Sec. 483), it would seem that the State officials' call for them as evidence should be respected. If they are the private property of the government, the Secretary of the Treasury has undoubtedly the right to order them refused as evidence. Their purpose is to give the collector information as to the quantity of distilled spirits in the warehouse, and they are not open to the public. But cases can be imagined where the public would be benefited by knowing such reports. There is nothing in them which the distiller has a right to demand should be secret, nor anything which can injure the public welfare or interest. And it has been held *In re Hirsch*, 74 Fed. 928, that a collector must give as evidence the application of a person for a license. The weight of authority, however, seems to be with the court in the present case. *In re Huttman*, 70 Fed. 699; *In re Weeks*, 82 Fed. 729.

EVIDENCE—WILLS—MENTAL CAPACITY—*POWERS EX'R. ET AL. V. POWERS ET AL.*, 52 S. W. 845 (Ky.).—Evidence was offered as to the amount of property the testator had at a considerable time before his death and that he had a much less amount at his death. *Held*, that perhaps such evidence was admissible as showing the testator had not the mental capacity to make a will.

There seems to have been some doubt in the mind of the court as to the admissibility of this evidence and it is improbable that the decision will be anywhere followed. Such evidence is extremely remote from the issue and, by itself, of almost no effect, since the law has long been established that bad management or waste of an estate or want of understanding to transact even the ordinary business of life does not affect testamentary capacity. *Whitney v. Twombly*, 136 Mass. 145; *Hall v. Hall*, 17 Pick. (Mass.) 373.